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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR      | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|---------------------------|---------------------|------------------|
| 09/367,666      | 03/06/2000  | Martinus Oliver Klockseth | 11045-11            | 4619             |

7590 04/19/2005

Kevin T LeMond  
Townsend & Townsend & Crew  
8th Floor  
Two Embarcadero Center  
San Francisco, CA 94111-3834

EXAMINER

KRISHNAMURTHY, RAMESH

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3753

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/367,666

Applicant(s)

KLOCKSETH ET AL.

Examiner

Ramesh Krishnamurthy

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>08/99 &amp; 10/03</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

This office action is responsive to communications filed 02/09/2005.

**Claims 1 – 10 are pending.**

1. Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed in Australia on 02/18/1997. Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date. *The signed (by only one of the inventors) copy of the oath/declaration filed 03/06/200 lacks any reference to the prior application referenced above. Receipt is acknowledged of a certified copy of the PO 5171 application.*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitation "movement of the first and second surfaces relative to each other". Claim 6 recites the limitation "movement of the first and second surfaces parallel to each other". Each of these limitations is confusing in that the disclosure as originally filed discloses only one of the two surfaces to be moveable. It is suggested that the applicant replace "movement" with - - relative movement - - to align the claims

to the disclosure. In this office action, this limitation has been construed to mean relative movement of the first and second surfaces relative to each other.

5. Claim 10 recites the limitation "outer surface of the inner outer cylinder" in lines 3 and 4. This limitation is confusing in that the disclosure discloses the annular chamber to be formed on the outer surface of the inner cylinder and such is taken to be the case in this office action.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4, and 6 – 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (US 3,070,108).

Fischer discloses a pressure compensating valve including: a chamber (31) for containing fluid defined by a flexible barrier (24, 25) trapped between first (10,11) and second surfaces (12); a fluid inlet (33) to provide fluid to the interior of the chamber; and a fluid outlet (40, 41) to selectively allow fluid to pass out of the chamber; wherein, relative movement of the first and second surfaces relative to each other causes change in contact between the flexible barrier and the first and second surfaces to selectively open the fluid outlet, in a first position (Fig. 2) , and occlude it between the flexible barrier and one of the surfaces, in a second position (Fig. 1). The fluid inlet (33) passes through the first surface (10, 11) into the chamber (31). There is a passage between the chamber and the second surface, and the fluid outlet includes an aperture in the

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second surface (40, 41), which is selectively occluded by the flexible barrier, in the second position. A pressure plate (20,22) is connected to the second surface (12), wherein, in use, the pressure plate experiences a variable working pressure on an enclosed side (from (16) and a reference pressure on the other side (chamber (15)); the pressure differential across the pressure plate causing movement of the first and second surfaces relative to each other to selectively supply fluid to the enclosed side. A bias spring (43, 44) is provided, associated with the pressure plate, to bias the first and second surfaces into predetermined positions relative to each other. The chamber (31) is toroidal, the first and second surfaces are concentric cylinders, the fluid inlet is an annular chamber formed on the outer surface of the inner cylinder (12), and the pressure plate spans the interior of the inner cylinder.

8. Claims 3 and 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

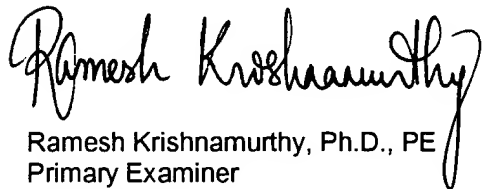
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene L. Mancene, can be reached on (571) 272 – 4930. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 – 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 - 0861.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Ramesh Krishnamurthy". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

Ramesh Krishnamurthy, Ph.D., PE  
Primary Examiner  
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